



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XC760]

50 CFR Part 224

Endangered and Threatened Species; Petition to Establish A Vessel Speed Restriction and Other Vessel-Related Measures to Protect Rice's Whales

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of petition; request for comments.

SUMMARY: The Natural Resources Defense Council, Healthy Gulf, Center for Biological Diversity, Defenders of Wildlife, Earthjustice, and New England Aquarium submitted a petition to the National Marine Fisheries Service (NMFS) for rulemaking to establish a year-round 10-knot (kn) (5.1 meters/second) vessel speed limit and other vessel-related mitigation measures in the Rice's whale "core" habitat area. NMFS is requesting comments on the petition and will consider all comments and available information when determining whether to accept the petition and proceed with the suggested rulemaking.

DATES: Submit written comments on or before [*insert date 90 days after date of publication in the Federal Register*].

ADDRESSES: You may submit data, information, or comments on this document, identified by NOAA-NMFS-2023-0027, and the petition by either of the following methods:

- *Electronic Submission:* Submit all electronic comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-

2023-0027. Click on the “Comment” icon and complete the required fields. Enter or attach your comments.

- *Mail:* Submit written comments to Assistant Regional Administrator, Protected Resources Division, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: NMFS may not consider comments sent by any other method, to any other address or individual, or received after the end of the comment period. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe portable electronic file (PDF) formats only. The petition can be obtained electronically on our website at: <https://www.fisheries.noaa.gov/species/rices-whale#conservation-management>.

FOR FURTHER INFORMATION CONTACT: Laura Engleby, NMFS Southeast Region, laura.ingleby@noaa.gov, 727-824-5312.

SUPPLEMENTARY INFORMATION: On May 11, 2021, NMFS received a petition pursuant to the Administrative Procedure Act from the Natural Resources Defense Council, Healthy Gulf, Center for Biological Diversity, Defenders of Wildlife, Earthjustice, and New England Aquarium requesting that we utilize our authorities under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) to establish a “Vessel Slowdown Zone” to protect Rice’s whales from collisions with vessels and noise pollution. The petition proposes a year-round 10-knot vessel speed restriction within waters between 100 meters (m) and 400 m deep from approximately

Pensacola, FL, to just south of Tampa, FL (*i.e.*, from 87.5° W longitude to 27.5° N latitude) plus an additional 10 kilometers (km) around that area (referred to in the petition as the “Vessel Slowdown Zone”). The petition proposes the following additional restrictions within this “Vessel Slowdown Zone”: a) no vessel transits at night; b) vessels transiting through the zone must report their plans to NMFS, utilize visual observers, and maintain a separation distance of 500 m from Rice’s whales; c) use and operate an Automatic Identification System, or notify NMFS of transits through the zone; and d) report deviations from these requirements to NMFS. The petitioners discuss the vulnerability of the species, identify vessel strikes and vessel noise as risks to the whales, and describe NMFS' authority under the ESA and MMPA to establish a “Vessel Slowdown Zone” with regulations. The petition describes the features of a “Vessel Slowdown Zone” and asserts that the petitioned vessel-related mitigation measures are necessary for the conservation and recovery of Rice’s whales.

We are soliciting information from the public, governmental agencies, tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the petitioned action. In particular, we request information and comments on: (1) the advisability of and need for regulations to establish a “Vessel Slowdown Zone;” (2) the geographic scope of any such regulations; (3) alternative management options for regulating vessel interactions with Rice’s whales, including but not limited to the options in the petition; (4) scientific and commercial information regarding the effects of vessels on Rice’s whales, or other similar species, and their habitat; (5) information regarding potential economic effects of regulating vessel interactions; and (6) any additional, relevant information that NMFS should consider. The petition is available at: <https://www.fisheries.noaa.gov/species/rices-whale#conservation-management>.

You may submit your information and materials electronically or via mail (see **ADDRESSES** section). We request that all information be accompanied by supporting

documentation such as maps, bibliographic references, or reprints of pertinent publications. We also would appreciate the submitter's name, address, and any association, institution, or business that the person represents; however, anonymous submissions will also be accepted.

If NMFS decides to initiate rulemaking, we will notify the petitioners and publish a notice of our decision in the **Federal Register**. If NMFS decides not to proceed with the petitioned action, we will notify the petitioners and provide a brief statement of the grounds for the decision.

Dated: March 29, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for

Regulatory Programs, National Marine Fisheries Service.

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